2013 WL 3488960 (Md.App.) (Appellate Brief)
Maryland Court of Special Appeals.

In the Matter of John T. WILSON for the Appointment of a Guardian of the Person and the Property.

No. 01647.
September Term, 2012.
February 22, 2013.

Appellant John T. Wilson
Appeal from the Circuit Court for Prince George's County (The Honorable Sherrie L. Krauser)

Brief of Appellant John Wilson & Record Extract

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*1 INTRODUCTION

This is a case of **elder** abuse where the circuit court failed to use the tools handed it by the General Assembly to undo the wrongs done, to the extent possible, and to prevent on-going damage to the victim. Those tools, in the Maryland version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (Adult Guardianship Jurisdiction Act or AGJA), Md. Est. & Trusts Code Ann., Title 13.5, were designed exactly for cases such as this where an **elderly** person is kidnaped and taken from his home for the financial advantage of the kidnapper. The court below treated the case as a run-of-the-mill guardianship, erred as a matter of law in holding that it lacked jurisdiction, and erred as a matter of law in failing to consider the factors established by the General Assembly in deciding whether to exercise its jurisdiction exactly in cases such as this. For these reasons, the case should be reversed and remanded with instructions.

STATEMENT OF THE CASE

On June 29, 2012, Appellant Laura Townsend filed an Emergency Petition for Appointment of a Temporary and Permanent Guardian of Person and Property, shortly after her father, John Wilson, was taken from his home without his consent. On July 19, 2012, she filed a Supplement to Emergency Petition for Appointment of a Temporary and Permanent Guardian of Person and Property and Request for Examination by an *2 Independent Physician in which she noted that a guardianship petition had been filed in Washington State.

By an Order dated August 8, 2012, the Circuit Court for Prince George's County (Krauser, S.) dismissed the Emergency Petition. On August 28, 2012, the same court denied Appellant Laura Townsend and Appellant John T. Wilson's Joint Motion To Alter or Amend the Court's August 8, 2012 Order Sua Sponte Dismissing Case.

QUESTIONS PRESENTED

Did the circuit court err as a matter of law in holding that it lacked jurisdiction over a petition for the appointment of a guardian of a resident because it failed to recognize that Maryland was his home state under the Adult Guardianship Jurisdiction Act,

Md. Est. & Trusts Code Ann., § 13.5-201(1) or because it had priority as the significant-connection state where a petition was pending?

Did the circuit court err as a matter of law in failing to apply the standards set out in the Adult Guardianship Jurisdiction Act, Md. Est. & Trusts Code Ann., § 13.5-204(a) and (c) in determining whether to exercise its jurisdiction over an individual who has been removed without consent from his home state of Maryland?

*3 STATEMENT OF FACTS [1]

As of 2010, Appellant Dr. John Wilson and his third wife, Artee Young Wilson, a non-practicing lawyer, lived in Tacoma, Washington (State). Dr. Wilson, now 88, had been suffering from dementia for the better part of the decade, onset beginning in 2001. In October, 2010, Mrs. Wilson found herself unable to manage her life and was invited to move in with Erin Ceragioli, a friend of Dr. and Mrs. Wilson. [2] Because Dr. Wilson was plainly unable to live at home alone, Mrs. Wilson and Ms. Ceragioli placed Dr. Wilson in an assisted living facility, Narrows Glen, in Takoma, Washington, on September 28, 2010. [3] Ms. Ceragioli generously paid for Dr. Wilson's care there using her own funds for the better part of a year because Mrs. Wilson said she could not afford the cost. [4] When Ms. Ceragioli indicated that she could no longer pay for Dr. Wilson's care, Mrs. Wilson called ***4** Laura Townsend, Dr. Wilson's only child, co-Appellant here, and asked her to come take her father. [5] Mrs. Townsend and her husband live in Mt. Rainer, Prince George's County, Maryland.

Mrs. Townsend promptly flew to Washington State and on July 14, 2011, she and her husband brought her father back here to live with them and their family at their home in Mt. Rainer, Maryland. [6] Dr. Wilson attended adult daycare while his daughter and son-in-law were working. [7] After about nine months Mrs. Townsend as was her original plan researched nearby assisted living facilities. [8] On May 16, 2012, she emailed Mrs. Wilson with information about Malta House, an assisted living facility in Hyattsville. [9] Mrs. Wilson responded that she needed Dr. Wilson to sign a “financial document” and asked whether Dr. Wilson should return to Washington State; she was silent about Malta House. [10] Mrs. ***5** Townsend responded that her father was doing well here and, hearing nothing further from Mrs. Wilson, moved Dr. Wilson to Malta House on May 23, 2012. [11]

On June 14, 2012, Mrs. Wilson again emailed Mrs. Townsend, this time expressing urgency, that she needed Dr. Wilson to sign some documents related to the sale of a parcel of real property owned by them. [12] Mrs. Townsend, recognizing her father's inability to understand legal documents, sought legal advice. [13] On June 20th, she informed Mrs. Wilson that she was advised to secure guardianship for her father because he lacked capacity to execute legal documents. [14] That same day, Ms. Ceragioli telephoned Mrs. Townsend to inform her that Mrs. Wilson was angry and was making travel arrangements to come to Maryland. [15]

On June 26, 2012, Mrs. Wilson arrived at Malta House without notice, planning to take Dr. Wilson out without consulting with his physician and without his medications or personal belongings. [16]

***6** Mrs. Townsend, on June 29, promptly filed an Emergency Petition for Appointment of a Temporary and Permanent Guardian of Person and Property in the Circuit Court for Prince George's County, Maryland. The court took no action for more than two weeks, and when it did act, in mid-July, it treated the matter as a standard, non-emergency guardianship, appointing counsel and setting the matter for hearing almost three months later, on September 21, 2012.

On July 9, 2012, Mrs. Wilson filed a Petition for Guardian of Person and Property in Pierce County Superior Court, Washington State. On the same day, that court issued an Order Assigning Case to Department and Setting Hearing Date of September 19, 2012. The next day, it issued the Order appointing a Guardian Ad Litem to represent Dr. Wilson.

As just noted, on July 12, 2012, the Maryland court appointed counsel to represent Dr. Wilson, and on July 16, 2012, it issued the Show Cause Order.

On July 19, 2012, Laura Townsend filed a Supplement To Emergency Petition and Request For Examination By An Independent Physician in which she informed the court of the proceeding then pending in Washington State. On August 8, 2012, without hearing oral argument or providing counsel for Mrs. Townsend or Dr. Wilson an opportunity to respond, the court dismissed the Emergency Petition for lack of jurisdiction.

In the meantime, on the same day, Mrs. Townsend filed both an Answer and Petition To Dismiss for lack of jurisdiction in the Washington State guardianship matter. She was subsequently, on August 13, 2012, supported in that position by Donna Campbell, Esq., the ***7** Guardian Ad Litem reflecting Dr. Wilson's interests in the Washington State case. She recommended dismissal of the Washington State case because Dr. Wilson was a Maryland resident; in the alternative, she recommended that Mrs. Townsend be appointed guardian. [17]

On August 17, 2012, Laura Townsend and Dr. Wilson filed their Joint Motion To Alter or Amend the Court's August 8, 2012 Order Sua Sponte Dismissing Case. On August 28, 2012, the Maryland court denied the Joint Motion.

On September 7, 2012, the Washington State court issued an Order Denying Laura Townsend's Petition To Dismiss. The Washington State court held a hearing on September 19, 2012, and issued an Order appointing an independent guardian of person and property, Ingrid Cameron. Ms. Cameron placed Dr. Wilson in an adult family home with five other residents suffering from dementia. His monthly income of about $5,500 is sufficient to pay his room and board of $4,500. [18]

SUMMARY OF ARGUMENT

The circuit court's holding that it lacked jurisdiction under the Adult Guardianship Jurisdiction Act, Md. Est. & Trusts Code Ann. § 13.5-201, is plainly wrong and contrary to the statute. Its failure to act on the Emergency Petition for more than two weeks was an ***8** abuse of discretion. Its further failure to consider the factors set out in the Adult Guardianship Jurisdiction Act, Md. Est. & Trusts Code Ann. § 13.5-204, to determine whether to exercise its jurisdiction as the appropriate forum was also error as a matter of law. The orders of the court should be reversed and the case remanded to the circuit court with directions.

ARGUMENT

I. STANDARD OF REVIEW

An appellate court reviews a lower court's legal conclusions involving the application of Maryland statutory and case law under a de novo standard of review. *Clancy v. King*, 405 Md. 541, 554, 954 A.2d 1092 (2008)(See also *Walter v. Gunter*, 367 Md. 386,

392, 788 A.2d 609 (2002)). Viewed as in the nature of summary judgment, the standard is still whether the trial court's decision was correct as a matter of law. *Heat & Power Corp. v. Air Products & Chemicals, Inc.*, 320 Md. 584, 578 A.2d 1202 (1990).

Notwithstanding the general policy of deference to a lower court's discretionary decisions, an appellate court will reverse a decision if it is "unable to discern from the record that there was an analysis of the relevant facts and circutances that resulted in the exercise of discretion." *Maddox v. Stone*, 174 Md.App. 489, 502, 921 A.2d 912, 919 (2007). "The record must reflect that the judge exercised discretion and did not simply apply some predetermined position." Id., 174 Md.App. at 502, 921 A.2d at 920 (2007). The court's "exercise of discretion must be clear from the record." ***9** *Scully v. Tauber*, 138 Md.App. 423,431, 771 A.2d 550, 554 *cert. denied*, 365 Md. 268, 778 A.2d 383 (2001). "When it is not clear that discretion was exercised, reversal is required." Id. 138 Md. App. at 431, 771 A.2d at 554.

IL THE TRIAL COURT ERRED AS A MATTER OF LAW IN HOLDING THAT IT LACKED JURISDICTION; IT HAD JURISDICTION AS "HOME STATE" OR "SIGNIFICANT CONNECTION" STATE

A. The Adult Guardianship and Protective Proceedings Jurisdiction Act.

The frequency of contested cases in which more than one state had jurisdiction over a petition for guardianship of the same person prompted the Uniform Law Commission to promulgate the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, the Adult Guardianship Jurisdiction Act for short (AGJA) in 1997.

Jurisdictional conflicts arose for many reasons, including the adult being physically located in a state other than his or her state of domicile, or the adult maintaining two residences in different states. More troubling were the cases, like this one, where a family member kidnaps an adult, usually a vulnerable older person, to the family member's state of domicile and promptly files a petition for guardianship. Traditional state guardianship law gave trial courts little power or discretion to look beyond their own jurisdiction in protecting the **elderly** and acting in their best interests.

The Act recognizes the complexity of living arrangements that are common enough today, where an older adult might be living in a state other than his longtime state of residence, and detailed the factors to be considered in determining which state should ***10** exercise jurisdiction. It aims to resolve multi-state jurisdictional disputes with the goal of only one state having jurisdiction at any one time. (Uniform Law Commission Legislative Fact Sheet [19]). It also, rather uniquely, provides for inter-court communications to facilitate resolution when the authority of two or more states is invoked. To date, 35 states, including Maryland and Washington State, and D.C. and Puerto Rico have enacted the AGJA. Maryland enacted the Adult Guardianship Jurisdiction Act in 2010 to "address jurisdiction of Maryland courts over adult guardianship and protective proceedings, in relation to courts in other states...." H.B. 1275, 2010 Md. Leg. Sess.

The three principal subsections of the statute govern (1) jurisdiction over a guardianship where more than one state might be involved, (2) uniform procedures for transferring a guardianship between Maryland and another state; and (3) registration and recognition of orders from other states appointing guardians. Md. E&T Code Ann., §§ 13.5-201 through -207, id., §§ 13.5-301 and - 302, and id., §§ 13.5-401 through -403. The heart of the Act is Subtitle 2, the jurisdictional provisions, which establishes priorities where more than one state has, or might have, jurisdiction over the same individual. It establishes a three-tier system, defining the home state, significant-connection states, and other states.

The ***home state*** is the state in which the adult was physically present for at least six consecutive months immediately before the filing of a petition for the appointment of a ***11** guardian. It has jurisdiction to appoint a guardian or issue a protective order, **id.,** §§ 13.5-101(g) and 13.5-201, and, if it chooses to act, has priority over all other jurisdictions. A ***significant-connection state*** is defined as one (other than the home state) with which an adult has a significant connection other than mere physical presence and in which substantial evidence concerning the adult is available. **Id.,** §13.5-101(o). Its jurisdiction is secondary to that of the home state. Id., §13.5-201. An ***other state*** may exercise jurisdiction only if the home state and all significant-connection states decline to act. **Id.,** §13.5-201(3).

Briefly, the courts of the home state have exclusive jurisdiction and no other state has jurisdiction unless and until a home state court declines to act. If there is no home state, then among significant-connection states a "first to file" rule applies, and again that court has exclusive jurisdiction and the courts of no other state have jurisdiction unless and until a court of the former declines to act.

B. Courts of Maryland, as Dr. Wilson's "Home State," Had Exclusive Jurisdiction Over a Guardianship of Dr. Wilson.

On June 29, 2012, the day the petition was filed, Dr. Wilson had lived in Maryland for almost a year. He was removed three days earlier when he was spirited out of the state by his third wife without notice, without planning, and with no regard for the health and safety of a disabled and confused 88-year-old man, indeed requiring his immediate hospitalization on his arrival in Washington State. Maryland was his home state at that point - the place where he had lived - "was physically present" - for six consecutive ***12** months "immediately before the filing of a petition for appointment of a guardian." As of the filing of the petition, he had lived nowhere else for almost a year.

Given its status as a court of the home state, the court below had exclusive jurisdiction to determine how to proceed. Washington State, as a significant-connection state, could not acquire jurisdiction until the court below, as a court of the home state, "declines to exercise jurisdiction because [the other] State is a more appropriate forum." Id., § 13.5-201(2)(i). Washington State cannot acquire jurisdiction if, at the time of filing, a petition is pending in the home state, id., § 13.5-201(2)(ii) and it loses jurisdiction if, before it issues an appropriate order, a petition is filed in the home state, id., § 13.5-201(2)(i)(1.), or, even if not, an objection is filed by someone - like a daughter "required to be notified of the proceeding." Id., § 13.5-201 (2)(ii). To be sure, a significant-connection state is not without special jurisdiction, id., §13.5-202(a), and later facts - such as the home state's disavowal of jurisdiction- may allow it to acquire jurisdiction, but in the first instance the home state court has jurisdiction and must act - based on legislatively prescribed factors - before any other state's court can assert jurisdiction.

The statute demands that the home state address the welfare of its citizens, in part by absolutely denying jurisdiction to the courts of any other state that has enacted AGJA unless and until the home state decides how to proceed. The other state is not merely directed to exercise its jurisdiction with due regard to the claim of the home state - the statute deprives every other state even of jurisdiction - the most fundamental aspect of ***13** judicial authority - over the guardianship proceeding until a home state court has acted, except for limited authority to take action protecting the disabled subject. Id., §13.5-202(a).

The definition of home state does not require that Dr. Wilson be physically present in Maryland at the time the petition was filed, only that he have been here for six months "immediately before the filing of the petition. If the drafters meant to require on-going physical presence, they would have written that the person had to be physically present for six months "at the time of the filing" of the tition. To read into the statute a requirement of physical presence, when the drafters failed to do so, would weaken the overall focus of the statute in strengthening existing ties and discouraging kidnaping just as occurred here.

C. Courts of Maryland, even as only a "Significant-Connection" State, Had Original Jurisdiction Over the Guardianship of Dr. Wilson.

Even if Maryland were not Dr. Wilson's home state (in which case he would no have a "home state"), its courts had jurisdiction because it is a "significant-connection state and, although not entirely free from doubt, had primary jurisdiction, a petition havin been filed here first. At worst, the court was charged with assessing in conjunction with the Washington State court - whether it or the other court was the appropriate one to hea this guardianship.

Maryland is plainly a "significant-connection" state for Dr. Wilson under AGJA Determining that status requires consideration of the availability of evidence concerning him, the presence of his family and others entitled to notice and the length of time

he was ***14** here without absence. Id., § 13.5-101(o)(1) and (2)(i) and (ii). He has only two significant family members; one is here. He has lived here without interruption far longer than is sufficient to establish home state status. All reliable long-term evidence of his current health was here.[20] Other factors, such as voter and driver registration, id., § 13.5- 101(o)(2)(iv), are irrelevant given his incapacity. This is not to say, of course, that Washington State was not also a significant-connection state, and would have been even had he not been kidnaped given his ownership of property there and his previous and long-standing residence. But of course the premise of the statute is that a person can have multiple significant-connection states, in addition to a home state; among significant-connection states, that determination only lays the groundwork for deciding which state's courts should oversee a guardianship, and that turns more on the health and welfare of the subject.

The courts of Maryland, a significant-connection state, plainly had jurisdiction to oversee his case under AGJA. If there is no home state, it has jurisdiction under id., § 13.5-201(2)(i). The parallel provision, § 13.5-201(2)(ii), gives Maryland jurisdiction as a significant-connection state if, "[o]n the date the petition is filed, ... a petition is not pending ... in the court of... another significant-connection state." Neither of the factors ***15** that might divest it of jurisdiction - filing a petition in the home state or an objection by someone entitled to notice, *id.*, § 13.5-201(2)(ii)(1.) and (2.)-are present.

That provision gives Maryland primary exclusive jurisdiction. Read too literally, the statute would allocate jurisdiction between significant-connection states if there were an uninvolved home state (a petition neither pending nor filed), but not otherwise. In the former case, the second-to-file court would not get jurisdiction. Logically it should be the same if there were no home state. Indeed, the parallel provision addressing the situation, like this, where there are proceedings in two states, authorizes the court to hear the case "unless a court in another state acquires jurisdiction under § 13.5-201 before the appointment or issuance of an order." Id., § 13.5-207(1). That plainly requires "other" states to defer to home states and significant-connection states, and significant-connection states to defer to home states. By the same token, AGJA must require the second-filed significant-connection state to await action (because it has not yet acquired jurisdiction under § 13.5-201) by the significant-connection state that received the first filing, otherwise § 33.5-201 would be giving priority to the second-filed state, which makes no sense at all.

But having primary jurisdiction does not tie the court's hands. One of the great innovations of the statute is to permit the courts to communicate directly with each other, with appropriate procedural protections, id., § 13.5-103, and indeed the statute assumes that that should happen in a case like this.

***16 III. THE TRIAL COURT ERRED AS A MATTER OF LAW IN FAILING TO CONSIDER THE FACTORS ESTABLISHED BY STATUTE AS RELEVANT TO DETERMINING WHETHER TO EXERCISE JURISDICTION IN THIS GUARDIANSHIP.**

The AGJA wisely recognizes both that more than one state might appropriately have jurisdiction over the guardianship of a disabled adult, and concomitantly, that one or more courts should have the discretion not to exercise jurisdiction they admittedly have. In this, of course, it is quite different from conventional guardianship statutes: if appointment of a guardian is called for, a court could hardly decline to appoint one for reasons of convenience, for example. In providing for courts to decline to exercise their jurisdiction, the AGJA has the legislatures provide guidance to the courts in how to exercise that discretion.

The court of a home state or a significant-connection state may decline to exercise jurisdiction if it determines that a court of another state is "a more appropriate forum." *Id.*, § 13.5-204(a). In reaching this determination, the General Assembly provided that "a court *shall* consider all relevant factors" (emphasis added), identifying nine specifically without excluding others. These include in this order and, it would appear, in order of priority, "an expressed preference of the respondent"; "whether abuse, **neglect**, or exploitation of the respondent has occurred ... and which state could best protect the respondent from the abuse, **neglect**, or exploitation"; and other practical factors, including distance from the ***17** court of each state, financial circumstances, the location of evidence, and practical considerations of court procedures, familiarity with the facts and issues, and ability to monitor a guardian or conservator. *Id.*, § 13.5-204(c)(1)-(9). Implicit in these standards is the presence of family members, their relationship to the subject, and their willingness and ability to continue to contribute to his life and to his happiness.

So far as appears from the record, the court considered none of this. It noted Dr. Wilson's removal to "his former home state" and the pendency of the guardianship there, and then dismissed. Given the gravity ofthe situation, it is hard to see how a hearing would not have been effective to flush out the fundamental care concerns and other matters affecting Dr. Wilson's welfare. Even without a hearing, the parties provided substantial support for the wisdom of the court's exercise of its jurisdiction. For example, and perhaps most significantly, Dr. Wilson was found by his Washington State guardian ad litem to favor being with his daughter, appellant Mrs. Townsend, rather than Mrs. Wilson.

[When I] met with John Wilson Jr. and his wife Artee Young Wilson ... [h]e wasn't very conversant with me while I was there and I could not tell if it was because of the severity of his dementia or if he was unhappy, frustrated or what. I was at his home for 3 hours, during that time, he never moved.... I made several attempts to include John in the conversation with Artee and myself, ... and he was unable to answer these questions.... I asked him if he had a preference of his wife or his daughter and he was not able to tell me. I also spoke to John when Artee left the room to speak on the phone and again asked him if he missed his daughter and where he wanted to life [sic] and he did not want to answer. I could not tell why he was closed off, if it was because he was unable to form an answer or did not feel he could speak to me.

***18** I met with John [Dr. Wilson] again ... with his daughter Laura Wilson Townsend [and] John's demeanor was different, he was happy and cheerful. While he still was unable to answer most of my questions and was confused, he did try to participate part of the time in the conversation. When I asked him if he wanted to go back to Maryland with Laura, he thought that this would be ok for a spell. But when I asked if he wanted to stay with Artee, he said nothing. [21]

Ms. Campbell recommended to the Washington State court that it dismiss the petition filed in Washington because Maryland was the more appropriate forum, but in the alternative, that Laura Townsend be appointed guardian of the person and property. Guardian Ad Litem Report, page 2. Even if the court below did not find this, in and of itself, compelling, it surely called out for the court to ascertain more definitely Dr. Wilson's feelings and wishes. That is plainly the most important factor, and yet the record reflects no consideration of it.

Had the court considered the second most important factor, the history of abuse and exploitation, it would again require the court to weigh that history heavily in favor of protection here against the other practical considerations. Yet the record does not reflect that it was given any consideration at all. To be sure, the Washington State court has to some extent solved the problem by disregarding the wife's high priority for appointment as guardian by appointing an independent non-lawyer professional guardian. But the result is that an **elderly** gentleman is now under the care of none of his relatives.

AGJA was designed to enable courts to avoid such results. It specifically took the unusual step of authorizing court-to-court communications, id. § 13.5-103. The Washington ***19** State court's decision not to appoint Mrs. Townsend because of her distance from that court is exactly the kind of constraint that the interstate cooperation was designed to prevent through court-to-court exchange.

The trial court's failure to consider these and the other relevant factors was plainly reversible error. The Court of Appeals and this Court have repeatedly reversed trial courts for their failure to consider the appropriate factors in exercising their discretion. It is and is recognized by the courts to be, an error of law, which appellate courts review under the **de novo** standard; albeit as an abuse of discretion.

In ***Gunning v. State,*** 347 Md. 332, 701 A.2d 374 (1997), the Court of Appeals reviewed the factors for a trial judge to consider in deciding whether to give a jury instruction on eye-witness identification, which requires a careful consideration of the aspects of doubt for which the defense may have laid the groundwork. 347 Md. at 350-351, 701 A.2d at 383. The Court reversed not because the trial court abused its discretion, but for its "failure to even exercise his judicial discretion." After reviewing the many considerations, it said the decision whether to use a certain instruction, being in the court's discretion, required that it "make an individualized determination [rather than apply] an unyielding rule...." 347 Md. at 354-355, 701 A.2d at 385. Similarly,

in ***Whittington v. Whittington,*** 172 Md.App. 317, 914 A.2d 212 (2007), this Court reversed an award of indefinite alimony because the trial court based its decision on only two factors - length of the marriage and relative incomes - and not on all of the factors dictated by the General ***20** Assembly through its statutory enactments. "It is legal error for a court, in making a discretionary decision, to fail to exercise discretion" based on the appropriate factors. 172 Md.App. at 340, 914 A.2d at 225. ***See also Greater Metropolitan Orthopaedics, Inc. v. Ward,*** 147 Md.App. 686, 699, 810 A.2d 534, 542 (2002)("The court's failure to exercise discretion usually amounts to reversible error").

CONCLUSION

It is not too late to right the on-going injury that Dr. Wilson suffers being far removed from the person with whom, with abundant justification, he feels most safe so far as the record to date shows. The decision of the Circuit Court for Prince George's County in this matter should be reversed and the case remanded to the circuit court with directions to develop a record from which the court may find the facts relevant under the standards established by the General Assembly. Whether and to what extent to communicate with the courts of Washington State, as contemplated by AGJA, or to take advantage of the interstate witness procedures that statute also provides, id. § 13.5-105(a) and (b)(1), are of course entrusted to the trial court's sound discretion.

Footnotes

1 These facts are drawn from the affidavits and pleadings. Counsel can find no appellate decision addressing how to approach the record given a total lack of findings by the trial court, but it would seem most logical to treat the court's action as the grant of an adverse party's motion for summary judgment under Md. Rule 2-501. In that context, Appellants would be entitled to rely on the affidavits and documents in the record and to all reasonable inferences therefrom in their favor. *Beatty v. Trailmaster Prods., Inc.*, 330 Md. 726, 625 A.2d 1005 (1993).

2 Joint Motion To Alter Or Amend The Court's August 8, 2012 Order *Sua Sponte* Dismissing Case, Exhibit 5 - Guardian Ad Litem Sealed Confidential Report (hereinafter Confidential Report), p.10. (App. 146) Appellant John Wilson adopts Appellant Laura Townsend's Record Extract.

3 Confidential Report, p. 11. (App. 147)

4 Confidential Report, pp. 10-11. (App. 146-147)

5 Confidential Report, p.11. (App. 147)

6 Joint Motion To Alter or Amend the Court's August 8, 2012 Order Sua Sponte Dismissing Case, Exhibit 3-Declaration of Laura Wilson Townsend (hereinafter Townsend Declaration), p.3. (App. 122)

7 Townsend Declaration, p. 4. (App. 123)

8 Townsend Declaration, p. 5. (App. 124)

9 Townsend Declaration, p.6. (App. 125)

10 Townsend Declaration, p.6. (App. 125)

11 Townsend Declaration, p.7. (App. 126)

12 Townsend Declaration, p.7. (App. 126)

13 Townsend Declaration, p.7. (App 126)

14 Townsend Declaration, p.7. (App. 126)

15 Townsend Declaration, p.8. (App. 127)

16 Townsend Declaration, p.8. (App. 127)

17 Joint Motion To Alter or Amend the Court's August 8, 2012 Order Sua Sponte Dismissing Case, Exhibit 5-Public Guardian Ad Litem Report, p. 2. (App. 136)

18 Joint Motion To Alter or Amend the Court's August 8, 2012 Order Sua Sponte Dismissing Case, Exhibit 2 - Petition for Guardianship of Person and/or Estate, p. 2. (App. 70)

19 www.uniformlaws.org/LegislativeFactSheet

20 At the time the petition was filed, his health would likely have been significantly disrupted so that current examinations would not have been reliable guides as to his long-term status.

21 Confidential Report, page 5.

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